(Spl.-H.C.A.S.,C.D.,78-e)

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF BOMBAY AT GOA
APPELLATE SIDE

WRIT PETITION NO. 76 OF 2004

Office Note, Office Memoranda of Quorum, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders

Shri R. G. Ramani, advocate for the petitioner.

CORAM : D. G. KARNIK, J.

DATE : 17th March, 2004

P.C.:

Heard learned counsel for the petitioner. The order dated 9th December, 2003, passed below Exhibit 34, the order dated 12th January, 2003, passed below Exhibit 36 and the order dated 10th February, 2004, passed below Exhibit 38 in Regular Civil Suit No.81/93/C are all challenged by this Writ Petition under Article 227 of the Constitution of India.

2. By an Order dated 9th December, 2003, the learned trial Judge allowed the application filed by the defendant, who is the

petitioner herein, permitting production of the documents, but rejected the prayer of the defendant for re-examination of D.W.1 for the purpose of production of the documents. Once the production is allowed the documents could be filed by the defendant itself alongwith the list of documents. It is not necessary that the documents must be filed through a witness. It is not contended before me that further examination-in-chief of the D.W.1 was necessary to prove the documents of which the production was allowed. Therefore, the learned Judge was right in rejecting the request of the petitioner to re-examine the witness only for the purpose of production of documents. I find no error in the order passed by the learned Judge on 9th December, 2003. Consequently, there was no error in the Order dated 12th January, 2004, rejecting the application for review of the Order dated 9th December, 2003.

3. A further application was made at Exhibit 38 by the defendant/petitioner, to mark the documents as Exhibits. The documents could not be marked as Exhibits without formal proof. The learned Judge has not prevented the defendant from examining any further witness, if the defendant so desires to prove those documents. I, therefore, find no error in the Order dated 30th January, 2004, rejecting the defendant's prayer to mark the documents as Exhibits, because the documents were not yet proved.

4. In any event at the interlocutory stage I find no reason to interfere. The defendant can challenge the said orders after the suit is decided while challenging the final judgment. It is clarified that the observations made earlier regarding the correctness of the orders are only prima facie and would not come in the way of the

defendant while challenging the final Judgment.

For these reasons the petition is rejected summarily.

D. G. KARNIK, J.

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